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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/802,813	03/18/2004	Masato Yamaguchi	250489US6	5876
22850	7590	08/13/2007	EXAMINER	
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314				DRAVININKAS, ADAM B
ART UNIT		PAPER NUMBER		
		2627		
NOTIFICATION DATE		DELIVERY MODE		
08/13/2007		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/802,813	YAMAGUCHI ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Adam B. Dravininkas	2627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 11 July 2007.

2a)  This action is **FINAL**.                    2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

4)  Claim(s) 1, 4 and 5 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1, 4 and 5 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.  
5)  Notice of Informal Patent Application  
6)  Other: \_\_\_\_\_.  
\_\_\_\_\_

## **DETAILED ACTION**

The cancellation of claims 2 and 3 is acknowledged

### ***Claim Objections***

1. Claim 4 is objected to because of the following informalities:

Line 5 recites: "a pair of the pair of switches." It is suggested to be changed to - - said pair of switches. - -

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1, 4, and 5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Re. claim 1: line 11 recites "based on the detection," however, the Examiner asks, based on the detection of what? It is suggested to be - - based on the detection of the disk - -.

Claims 4 and 5 are dependent from claim 1

Appropriate correction is required.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 4, and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Katsuichi et al. (JP 05-120781) in view of Hertrich (US 2005/0028180 A1) further in view of Kudara et al. (US 2003/0231571 A1).

Re. claims 1, 4, and 5: Katsuichi et al. disclose A disk recording and reproducing device comprising:

a slide member (5) which is slidably driven by a drive unit (30) through a rack (35) to convey a disk (1) in a horizontal direction (a') from a disk ejecting position (fig. 2) and thereafter lower the disk vertically and position the disk in a disk writing/reading position (fig. 4) in which information can be written on and read from the disk by an optical pickup (not shown), (see drawings 2-10; paras. 0009, 0017-0019)

said disk recording and reproducing device has a detecting unit (20, 21) on a chassis (14) thereof for being electrically detected by said switch trigger; and (see drawings 1a-c, 2-4; paras. 0013-0014)

said detecting unit has a pair of switches (20, 21) which turn on/off according to a position of said switch trigger of said slide member and detects the disk ejecting position, said disk writing/reading position, and said disk standby position based on a

combination of the turning on and off of said pair of switches; (see drawings 1a-c, 2-4; abstract, paras. 0032, 0036)

    said disk is a cartridge-type disk (2). (see drawings 1a-c, 2-4, 9, 10; abstract, para. 0009)

However, Katsuichi et al. fail to disclose or fairly suggest that:

    said slide member has a switch trigger,

    said detecting unit is configured to detect a disk standby position which is between said disk writing/reading position and said disk ejecting position, and, in a standby mode, the disk is moved and placed at said disk standby position based on the detection, said disk is stopped in said disk standby position on upward movement thereof by the disk recording and reproducing device while said disk is conveyed from said disk writing/reading position toward said disk ejecting position;

    wherein, in said disk standby position a surface of the disk is spaced from an objective lens by a distance to prevent said objective lens from contacting the surface of said disk even when said objective lens is moved in a movable range thereof.

Hertrich discloses a slide member (104) having a switch trigger (breaking an IR beam being detected by a phototransistor). (see para. 0032)

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the slide member able to trigger a switch of an IR

beam/phototransistor combination in order to instruct the controller to initiate the next step in the loading process.

However, Katsuichi et al. in view of Hetrich fails to disclose or fairly suggest that:

    said detecting unit is configured to detect a disk standby position which is between said disk writing/reading position and said disk ejecting position, and, in a standby mode, the disk is moved and placed at said disk standby position based on the detection, said disk is stopped in said disk standby position on upward movement thereof by the disk recording and reproducing device while said disk is conveyed from said disk writing/reading position toward said disk ejecting position;

    wherein, in said disk standby position a surface of the disk is spaced from an objective lens by a distance to prevent said objective lens from contacting the surface of said disk even when said objective lens is moved in a movable range thereof.

Kudara et al. discloses a disk recording and reproducing device which holds the optical disk (3) in a standby position between a writing/reading position and a disk ejecting position, and, in a standby mode, said disk is stopped in said disk standby position on an upward movement thereof by the disk recording and reproducing device while said disk is conveyed from said disk writing/reading position toward said disk ejecting position; (see figs. 8 and 9; paras. 0064-0065) (the disk is moved vertically from a writing/reading position so that it is level with the insertion/ejection opening. After the vertical movement stops, the disk is moved horizontally in order to eject the disk out of

the opening to the ejecting position. The time between where the vertical movement stops and when the horizontal movement starts is considered to be the standby position/standby mode.)

wherein, in said disk standby position a surface of the disk is spaced from an objective lens (5) by a distance to prevent said objective lens from contacting the surface of said disk even when said objective lens is moved in a movable range thereof. (see figs. 1, 8, and 9; paras .0044, 0064-0065) (In the standby position/standby mode, the disk is at a distance far enough from the objective lens that the disk cannot contact the objective lens.)

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to implement vertical movement, followed by a breaking of an IR beam to detect a standby position in order to make certain the disk was properly vertically aligned with the ejection slot of the apparatus before moving the disk in a horizontal position to eject the disk.

#### ***Response to Arguments***

6. Applicant's amendment to the abstract and title has been entered. The objections to the abstract of the disclosure and the title are hereby withdrawn.
  
7. Applicant's arguments with respect to claims 1, 4, and 5 have been considered but are moot in view of the new ground(s) of rejection.

**Conclusion**

8. The prior art made of record on PTO-892 form and not relied upon is considered pertinent to applicant's disclosure.
9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Adam B. Dravininkas whose telephone number is (571) 270-1353. The examiner can normally be reached on Monday - Thursday 9:00a - 6:00p.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrea Wellington can be reached on (571) 272-4483. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

ABD  
Adam Dravininkas  
August 3, 2007



ANDREA WELLINGTON  
SUPERVISORY PATENT EXAMINER